

MAIL TO:

STATE OF UTAH
DIVISION OF PURCHASING
3150 STATE OFFICE BUILDING, CAPITOL HILL
P.O. BOX 141061
SALT LAKE CITY, UTAH 84114-1061
TELEPHONE (801) 538-3026
www.purchasing.utah.gov

Invitation to BidSolicitation Number: **BV6048**Due Date: **02/15/06 at 5:00 P.M.**

Date Sent: January 30, 2006

Agency ContractGoods and services to be purchased: **REPAIR AND MODIFICATIONS OF INMATE LEASED TELEVISION SETS****Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes _____ No _____. If no, enter where produced, etc. _____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

**STATE OF UTAH
DIVISION OF PURCHASING
GENERAL SERVICES**

Invitation to Bid

Solicitation Number: **BV6048**

Due Date: **02/15/06**

Vendor Name:

**FIVE YEAR CONTRACT TO PROVIDE FOR THE REPAIR AND MODIFICATION OF INMATE LEASED TELEVISION SETS AT THE UTAH
DEPARTMENT OF CORRECTIONS DRAPER SITE, PER THE ATTACHED SPECIFICATIONS.**

READ THE SPECIFICATIONS CAREFULLY.

QUESTIONS ON SPECIFICATIONS CALL ENID BOURGEOIS AT (801) 545-5617.

QUESTIONS ON PURCHASING PROCESS (NOT RELATED TO SPECIFICATIONS) CALL BRENDA VELDEVERE AT (801) 538-3142.

RX: 410 66000000025

COMMODITY CODE: 93984

Modify TV's used in the Inmate TV Leas program as requested by the UDC. Modification may include: removing speakers, installing an earphone jack, removing external screws and replacing them with security screws, and adding a MOV resistor. Other modifications may be necessary depending on the brand and model of TV. The itemized cost for these modification per TV is as follows:

1. speaker removal and install of MOV resistor @ \$_____
2. external screws removed & replaced with security/tamper proof screws @ \$_____
3. cost of security screws @ \$_____
4. installing an earphone jack @ \$_____
5. cost of parts @ cost plus _____%

Contractor shall be paid \$_____ **per hour** for repair of television sets. This rate includes all fees for service calls and for travel. There will be no separate travel time paid.

Due to parking problems associated with the current Legislative Session (Jan 16 – Mar 1), Please plan accordingly for parking issues if you are going to deliver your bid by hand.

INVITATION TO BID - INSTRUCTION AND GENERAL PROVISIONS

1. BID PREPARATION: (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing quotation. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as specified. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the vendor lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the bid clearly states it is an alternate, and describes specifically how it differs from the item specified. All bids must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (f) By signing the bid the vendor certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices quoted are correct. (g) This bid may not be withdrawn for a period of 60 days from bid due date.

2. SUBMITTING THE BID: (a) The bid must be signed in ink, sealed in a properly addressed envelope, and delivered to the DIVISION OF PURCHASING (DIVISION), 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." **The "Bid Number" and "Due Date" must appear on the outside of the envelope.** (b) Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-109. (c) **Your bid will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of bids to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the bid for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination with all transportation and handling charges paid by the Contractor, unless otherwise specified by the DIVISION.

3. SOLICITATION AMENDMENTS: All changes to this solicitation will be made through written addendum only. Bidders are cautioned not to consider verbal modifications.

4. PROPRIETARY INFORMATION: Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for nondisclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any bid will not be considered proprietary. Bids submitted may be reviewed and evaluated by any persons at the discretion of the state.

5. SAMPLES: Samples of item(s) specified in this bid, when required by DIVISION, must be furnished free of charge to DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the bidder's expense.

6. WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

7. DIVISION APPROVAL: Purchase orders placed, or contracts written, with the state of Utah, as a result of this bid, will not be legally binding without the written approval of the director of the DIVISION.

8. AWARD OF CONTRACT: (a) the contract will be awarded with reasonable promptness, by written notice, to the lowest responsible bidder that meets the specifications. Consideration will be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this invitation to bid. (b) The bids are opened publicly in the presence of one or more witnesses. the name of each bidder, and the amount of the bid is recorded. Each bid, and the record, is open to public inspection. (c) The DIVISION may accept any item or group of items, or overall low bid. the DIVISION has the right to cancel this invitation to bid at any time prior to the award of contract. (d) The DIVISION can reject any and all bids. And it can waive any informality, or technicality in any bid received, if the DIVISION believes it would serve the best interest of the State. (e) Before, or after, the award of a contract the DIVISION has the right to inspect the bidder's premises and all business records to determine the holder's ability to meet contract requirements. (f) DIVISION does not guarantee to make any purchase under awarded contract(s). Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (g) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56-404 and 63-56-405, Utah Code Annotated. (h) Bid tabulations and awards are posted under "Vendor Info" at www.purchasing.utah.gov. (i) Multiple contracts may be awarded if the State determines it would be in its best interest.

9. ANTI-DISCRIMINATION ACT: The bidder agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also bidder agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. DEBARMENT: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

11. ENERGY CONSERVATION AND RECYCLED PRODUCTS: The contractor is encouraged to offer Energy Star certified products or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. The State of Utah also encourages contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this solicitation.

12. GOVERNING LAWS AND REGULATIONS: All state purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as amended, and the Procurement Regulations as adopted by the Utah State Procurement Policy Board. These are available on the Internet at www.purchasing.utah.gov.

(Revision 5 Oct 2005 - ITB Instructions)

**INVITATION TO BID
INMATE TELEVISION REPAIR
UTAH STATE PRISON – DRAPER SITE
SOLICITATION # BV6048**

INTRODUCTION

The State of Utah, Utah Department of Corrections (UDC), Division of Institutional Operations (DIO) is requesting bids to enter into an agency contract with a qualified firm to provide repair for televisions leased to inmates at the Utah State Prison, Draper Site, 14425 South Bitterbrush Lane, Draper Utah 84020. It is anticipated that this ITB shall result in a contract award to a single contractor. The contract may be awarded based on the initial bids received, without discussion of such bids. Accordingly, each bid should be submitted with the most favorable price, references and services. UDC reserves the right to reject any or all bids received.

This ITB is designed to provide interested bidders with sufficient basic information to submit bids meeting minimum requirements.

BACKGROUND

The Utah State Prison is an incarceration facility operated by the State of Utah, Department of Correction in Draper, Utah. It houses approximately 4,015 inmates, of which 450 are female.

ISSUING OFFICE AND RFP REFERENCE NUMBER

The State of Utah Division of Purchasing is the issuing office for this document and all subsequent addenda relating to it, on behalf of Division of Institutional Operations. The reference number for the transaction is Solicitation # BV6048. This number must be referred to on all bids, correspondence, and documentation relating to the ITB. Brenda Veldevere, Purchasing Agent, Division of State Purchasing & General Services, Room 3150 State Office Building, Salt Lake City, Utah 84114-1061 Telephone (801) 538-3142, is the designated Procurement Manager.

SUBMITTING YOUR BID

Your bid must be received at the State of Utah Division of Purchasing, 3150 State Office Building, Capitol Hill, Salt Lake City, Utah 84114-1061, prior to the closing date and time specified.

LENGTH OF CONTRACT

The proposed contract will become effective March 1, 2006, and will be in effect until February 28, 2011, unless a breach of contract occurs or the UDC determines that its priorities have changed or funds have been canceled at which time the contract will be terminated. Contract will be awarded to lowest bidding responsive and responsible bidder.

STANDARD CONTRACT TERMS AND CONDITIONS

Any contract resulting from this ITB will include the State's standard terms and conditions. See attached.

PROPRIETARY INFORMATION

The successful bid(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire bid may not be marked as proprietary. Bids may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of Utah and may be returned only at the State's option.

SPECIFICATIONS & REQUIREMENTS:

All bidders shall:

1. Provide a copy of their Utah business license and/or professional licensure. A copy of the business and/or professional license of the successful bidder shall be maintained with DIO's Contract Coordinator during the life of the contract.
2. Submit a minimum of three (3) references, company name, contact person and phone number, who can be contacted for verification of a successful track record and level of customer service.

DETAILED SCOPE OF WORK:

Successful bidder shall:

- A. Function as an independent contractor.
 - B. Any insurance for injury or Worker's Compensation is the responsibility of the contractor.
 - C. provide for the repair of various televisions that are used in the Inmate TV Lease Program, and other larger TVs as needed.
 - D. respond to UDC's notification call for need of repair within one business day. Contractor shall repair equipment at Contractor's regular place of business. All repairs shall be completed within 7 days of Contractor's response.
 - E. pick up and deliver TV's to and from the Draper Prison site.
 - F. UDC will provide a repair tag for each item of broken equipment.
 - G. record the repairs, parts replaced, and cost on the repair tag. CONTRACTOR shall also state whether the breakage was, in Contractor's opinion, due to product wear or intentional damage.
 - H. all repairs shall have a thirty-day parts and labor warranty. If any equipment requires the same repair within thirty days of the prior repair, it shall be repaired free of charge.
 - I. modify TV's used in the Inmate TV Lease program as requested by the UDC. Modification may include: removing speakers, installing an earphone jack, removing external screws and replacing them with security screws, and adding a MOV resistor. Other modifications may be necessary depending on the brand and model of TV. The itemized cost for these modification per TV is as follows:
 1. speaker removal and install of MOV resistor @ \$ _____
 2. external screws removed & replaced with security/tamper proof screws @ \$ _____
 3. cost of security screws @ \$ _____
 4. installing an earphone jack @ \$ _____
 5. cost of parts @ cost plus _____ %
 - J. When in the repair technician's opinion, a TV appears to have been intentionally damaged, the contractor will provide the UDC with a "statement of abuse," to include the following:
 1. a detailed description of the damage to the TV including an estimated cost (parts and labor) to repair it; and
 2. a Polaroid picture of the damaged TV.
2. **Costs**
- A. An invoice will be prepared for each piece of equipment repaired, detailing the model number, serial number, repairs made, and parts replaced and will be sent to the Utah State Prison to the attention of the Program Manager and to UDC Finance.

- B. Contractor shall be paid \$_____ **per hour** for repair of television sets. This rate includes all fees for service calls and for travel. There will be no separate travel time paid.

TIME OF PAYMENT:

Reimbursement under this contract shall be made on a **fee for delivered services and/or products as defined in contract**. UDC will make payments in monthly installments to CONTRACTOR up to the contract limit. CONTRACTOR shall bill UDC by the 10th of each month for delivered services and/or products during the previous month. Reimbursement must be made with funding allocated for the fiscal year in which the services and/or products were delivered. Billing for June services received after July 10, deadline does not have to be reimbursed unless funding can be utilized from the appropriate fiscal year. All payments made by UDC to CONTRACTOR shall be made in accordance with the Utah Prompt Payment Act, Utah Code Ann. , 15-6-1 et. seq. upon receipt of an invoice.

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract. Automatic renewals will not apply to this contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either

party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
16. **PUBLIC INFORMATION:** Except as expressly identified in writing and approved by the State Division of Purchasing, Contractor agrees that the contract and related Sales Orders and Invoices will be public documents, and may be available for distribution. Contractor gives the State express permission to make copies of the contract, the response to the solicitation, and related Sales Orders and Invoices in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).

20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-1002, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State of Utah Signature Page, and Atth. A: State of Utah Standard Terms and Conditions; 2. State Additional Terms and Conditions; 3. Contractor Terms and Conditions.
26. **ENTIRE AGREEMENT:** This Agreement, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Agreement shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Agreement shall prevail in any dispute between the terms of this Agreement and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Agreement.

(Revision date: Jan. 25, 2006)

ATTACHMENT B

UTAH DEPARTMENT OF CORRECTIONS SPECIAL TERMS AND CONDITIONS

1. **ASSIGNMENT AND DELEGATION.** Neither party shall assign any right or delegate any duty under this contract without the express written and signed consent of the other party.
2. **ATTORNEY'S FEES.** If either party brings an action, in law or equity, to compel the performance of, or to recover for the breach of, any agreement, covenant, or promise contained in this contract, the non-prevailing party shall pay the prevailing party's reasonable attorney's fees, the amount of any judgment, and all costs incurred.
3. **CONTRACT FORMATION.** No legally enforceable rights or duties shall arise between the parties under this contract until: (a) the respective representatives of CONTRACTOR and UDC sign the contract; and (b) the contract is approved and signed by the respective representatives of the UDC Office of Administrative Services, the UDC Bureau of Financial Services, and the State of Utah's Divisions of Purchasing and Finance.
4. **CONTRACTOR ACCESS TO UDC FACILITIES.** UDC shall have the right to deny CONTRACTOR'S agents and employees--or the agents and employees of its subCONTRACTORS (if any)--access to any premises controlled, held, leased, or occupied by UDC if, in the sole judgment of UDC, such personnel pose a threat to any of UDC legitimate security interests. Contractor will submit to all security checks that UDC deems necessary; including, but not limited to, searches of person and equipment. No one under the age of 18 will be allowed on property.
5. **CRIMINAL CONVICTION INFORMATION.** Upon written request by UDC, CONTRACTOR shall provide (at its own expense) UDC with sufficient personal information about its agents or employees--and the agents and employees of its subCONTRACTORS (if any)--who will enter upon premises controlled, held, leased, or occupied by UDC during the course of performing this contract so as to facilitate a criminal record check, at state expense, on such personnel by UDC.
6. **FORMER FELONS.** CONTRACTOR, in executing any duty or exercising any right under this contract, shall not cause or permit any of its agents or employees--or the agents or employees of its subCONTRACTORS (if any)--who have been convicted of a felony to enter upon any premises controlled, held, leased, or occupied by UDC. A given crime shall be deemed a felony if defined as such by the jurisdiction where the conviction occurred.
7. **INTEGRATION.** The parties declare this contract to be the final and complete expression of their agreement, and it shall not be contradicted, supplemented, or varied by any prior or contemporaneous oral or written agreements, representations, or understandings. **No modifications of this agreement will be binding on either party, unless made in writing and signed by persons authorized to sign agreements on behalf of the CONTRACTOR and UDC.**
8. **NON-APPROPRIATION OF FUNDS.** UDC continued performance after the start of the State of Utah's next fiscal year is expressly contingent upon funds for this contract being appropriated, budgeted, or otherwise made available. If funds are not made available for the next fiscal years, this contract will automatically terminate at the end of the current fiscal year.
9. **OCCUPATIONAL SAFETY AND HEALTH.** (This clause will be considered a part of this contract only if required by law, rule, or regulation). CONTRACTOR represents that it is in compliance with Occupational Safety and Health Administration (OSHA) standards on blood borne pathogens set forth in 29 CFR 1910.1030, for any of the CONTRACTOR'S employees who provide services to UDC pursuant to this contract.
10. **PARAGRAPH AND SECTION HEADINGS.** Paragraph and section headings throughout this contract are used for the sole purpose of facilitating the quick location of various contract provisions. Consequently, such headings do not create contractual rights or obligations, nor are they to be construed as a substantive part of the paragraphs or sections to which they belong.
11. **PUBLIC ACCESS TO CONTRACT INFORMATION.** This contract is a public document, and both CONTRACTOR and UDC shall allow members of the general public to inspect a copy of the same during their regular business hours. Interested parties may obtain a copy of this contract at their own expense.

12. **MONITORING AND REVIEW OF CONTRACT/AGREEMENT:** UDC, either itself or through a designated third-party, will monitor and review CONTRACTOR's delivery of services and compliance with the contract/agreement. Monitoring shall include, but not be limited to, verification that specified duties are being properly performed, that appropriate documentation exists, that charges submitted are properly substantiated, and that payments are made in accordance with agreement costs. Monitoring of CONTRACTOR's records related to this contract/agreement may be performed with or without prior notification by UDC or its designee.
13. **IMMUNITY ACT:** No Provision of this contract shall be construed to bring contractors or their agents, employees, or subcontractors (if any) within the coverage of the Utah Governmental Immunity Act, Utah Code Ann. § 63-30-1 et seq., as amended.
14. **WORKERS' COMPENSATION:** CONTRACTOR shall be responsible to provide Workers' Compensation Insurance for itself and its agents and/or employees or the agents and employees of its subcontractor. Contractor will defend, indemnify, and hold UDC harmless from any claim or liability arising out of CONTRACTOR'S or its agents' and/or employees' workers' compensation claims or its subCONTRACTOR'S employees' and/or agents' worker's compensation claims.
15. **CONTRACTOR AN INDEPENDENT CONTRACTOR:** CONTRACTOR acknowledges and agrees that it is providing its services and the services performed by its employees and/or agents as an independent contractor and not as an employee of UDC or the State of Utah. CONTRACTOR acknowledges and agrees that it is not entitled to any benefits, wages, or rights to which employees of UDC are entitled, including but not limited to retirement, medical/dental, leave, and overtime benefits. As an independent contractor, CONTRACTOR is solely responsible to pay appropriate federal and state taxes, FICA and FUTA on payments received by it and its employees and/or agents. CONTRACTOR agrees to indemnify UDC for all losses arising out of CONTRACTOR'S or subCONTRACTORS' tax liabilities, including any and all penalties, assessments, and/or claims against UDC.
16. **WAIVER OF CLAIMS:** CONTRACTOR and/or his agents/employees expressly and knowingly waive(s) any claim to wages, employment benefits and/or rights entitled to employees of UDC. By waiving its claims, CONTRACTOR agrees that neither it nor its employees/agents will file claims for wages and/or employment benefits entitled to employees of UDC, including but not limited to claims arising under the Federal Labor and Standards Act (FLSA) and/or State employment laws. CONTRACTOR agrees to indemnify, defend, and hold the UDC harmless against claims for employee wages, benefits, and/or rights otherwise entitled to employees of UDC.

Revision 4-12-05

-----END OF ATTACHMENT B-----